

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

OTIS A. DANIEL,

Plaintiff,

-against-

ROBERT S. TUCKER, ESQ.; STEVEN I.  
GUTSTEIN,

Defendants.

1:20-CV-2149 (LLS)

ORDER

LOUIS L. STANTON, United States District Judge:

By order and judgment dated April 24, 2020, and entered three days later, the Court dismissed this *pro se* action. (ECF 4 & 5.) On May 14, 2020, Plaintiff filed a letter in which he “express[ed] [his] gratitude to the [C]ourt for its time and attention to this matter,” but requested no relief. (ECF 6.) On July 10, 2020, he filed a motion under Rule 4(a)(5) of the Federal Rules of Appellate Procedure for an extension of time to file a notice of appeal. (ECF 7.) In his motion, he states that he “thought [his] prior appeal could have been re-open[ed] or the district court’s (Judge Engelmayer) 7/19/2018 order vacated,” and that he “received this Court’s judgment in May 2020.” (*Id.* at 1.) For the reasons discussed below, the Court denies Plaintiff’s motion.

**DISCUSSION**

Under Rule 4(a)(1)(A) of the Federal Rules of Appellate Procedure, a litigant must file a notice of appeal within 30 days of the entry date of the order or judgment being appealed. *See* Fed. R. App. P. 4(a)(1)(A). Under Rule 4(a)(5) of those rules, a party may file a motion for an extension of time to file a notice of appeal, but must do so within the time to file a notice of appeal or within 30 days after the period to file a notice of appeal has expired. *See* Fed. R. App. P. 4(a)(5)(A)(i). The time period to file such a motion has a “strict jurisdictional” deadline.

*Goode v. Winkler*, 252 F.3d 242, 245 (2d Cir. 2001). The moving party must also show “excusable neglect or good cause.” Fed. R. App. P. 4(a)(5)(A)(ii).

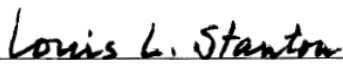
The Court’s order of dismissal and civil judgment were entered on April 27, 2020. Thus, Plaintiff had until May 27, 2020, to file a timely notice of appeal, and until June 26, 2020, to file a timely motion for an extension of time under Rule 4(a)(5). But he did not file his motion until July 10, 2020. Accordingly, the Court denies the motion. *See Goode*, 252 F.3d at 245 (“[E]ven assuming that [the moving party] made a showing of good cause for an extension, the untimely motion should not have been entertained . . .”).

### CONCLUSION

The Court directs the Clerk of Court to mail a copy of this order to Plaintiff and note service on the docket. The Court denies Plaintiff’s motion for an extension of time to file a notice of appeal under Rule 4(a)(5) of the Federal Rules of Appellate Procedure. (ECF 7.)

SO ORDERED.

Dated: July 14, 2020  
New York, New York

  
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Louis L. Stanton  
U.S.D.J.